

Introduced by Senator Anderson

February 27, 2015

An act to amend Section 10026 of the Business and Professions Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

SB 596, as introduced, Anderson. Real estate.

The Real Estate Law provides for the regulation and licensure of real estate brokers and salespersons by the Real Estate Commissioner. As used in the Real Estate Law, the term "advance fee" is defined as a fee regardless of the form, that is claimed, demanded, charged, received, or collected by a licensee for services requiring a license, or for a listing, as defined, before fully completing the service the licensee contracted to perform or represented would be performed, with certain exceptions.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10026 of the Business and Professions
- 2 Code is amended to read:
- 3 10026. (a) The term "advance fee," as used in this part, is a
- 4 fee, regardless of the form, that is claimed, demanded, charged,
- 5 received, or collected by a licensee for services requiring a license,
- 6 or for a listing, as that term is defined in Section 10027, before
- 7 fully completing the service the licensee contracted to perform or
- 8 represented would be performed. Neither an advance fee nor the
- 9 services to be performed shall be separated or divided into

1 components for the purpose of avoiding the application of this
2 division.

3 (b) For the purposes of this section, the term “advance fee” does
4 not include *any of the following*:

5 (1) “Security” as that term is used in Section 1950.5 of the Civil
6 Code.

7 (2) A “screening fee” as that term is used in Section 1950.6 of
8 the Civil Code.

9 (3) A fee that is claimed, demanded, charged, received, or
10 collected for the purpose of advertising the sale, lease, or exchange
11 of real estate, or of a business opportunity, in a newspaper of
12 general circulation, any other written publication, or through
13 electronic media comparable to any type of written publication,
14 provided that the electronic media or the publication is not under
15 the control or ownership of the broker.

16 (4) A fee earned for a specific service under a “limited service”
17 contract. For purposes of this section, a “limited service” contract
18 is a written agreement for real estate services described in
19 subdivision (a), (b), or (c) of Section 10131, and pursuant to which
20 such services are promoted, advertised, or presented as stand-alone
21 services, to be performed on a task-by-task basis, and for which
22 compensation is received as each separate, contracted-for task is
23 completed. To qualify for this exclusion, all services performed
24 pursuant to the contract must be described in subdivision (a), (b),
25 or (c) of Section 10131.

26 (c) A contract between a real estate broker and a principal that
27 requires payment of a commission to the broker after the contract
28 is fully performed does not represent an agreement for an advance
29 fee.

30 (d) This section does not exempt from regulation the charging
31 or collecting of a fee under Section 1950.5 or 1950.6 of the Civil
32 Code, but instead regulates fees that are not subject to those
33 sections.